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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/520,580	04/26/2005	Andre D'Oosterlynck	DECL103.001APC	7642

20995 7590 08/09/2007  
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EXAMINER
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CRANE, LAWRENCE E

ART UNIT	PAPER NUMBER
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1623

NOTIFICATION DATE	DELIVERY MODE
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08/09/2007

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jcartee@kmob.com  
eOAPilot@kmob.com

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/520,580	D'OOSTERLYNCK ET AL.	
	Examiner	Art Unit	
	L. E. Crane	1623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on January 7, 2005 (Prelim amdt).
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

The Abstract of the Disclosure is objected to because it does not meet the requirement of the MPEP for US application. Correction is required. See MPEP 608.01(b).

Applicant is reminded of the proper content of an Abstract of the Disclosure.

In chemical patent abstracts, compounds or compositions, the general nature of the compound or composition should be given as well as its use, e.g., "The compounds are of the class of alkyl benzene sulfonyl ureas, useful as oral anti-diabetics." Exemplification of a species could be illustrative of members of the class. For processes, the type reaction, reagents and process conditions should be stated, generally illustrated by a single example unless variations are necessary. Complete revision of the content of the abstract is required on a separate sheet.

Applicant is respectfully requested to amend the Abstract because the instant Abstract fails to include any generic structures identifying the compounds claimed to be anti-angiogenic.

This application has been filed with informal drawings acceptable for examination purposes only. Formal drawings will be required when the application is allowed. Many of the drawings include extraneous marks.

The instant disclosure fails to include "Cross-References to Related Applications." See 37 C.F.R. §1.78 and MPEP at §201.11. Applicant is respectfully requested to include the requested information as the first paragraph of the disclosure.

Claims 24-25 have been cancelled, claims 1-19 have been amended, the disclosure has been amended at page 1, and no new claims have been added as per the preliminary amendments filed January 7, 2005. No Information Disclosure Statements (IDSs) have been filed as of the date of this Office action.

Claims 1-23 remain in the case.

Note to applicant: when a rejection refers to a claim X at line y, the line number "y" is determined from the claim as previously submitted by applicant in the most recent response including ~~lines deleted by line through~~.

35 U.S.C. §101 reads as follows:

“Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title.”

Claims **1, 3 and 6** are rejected under 35 U.S.C. §101 because the conversion to “a metabolite” as specified in claims **1, 3 and 6** requires that the claim include ownership of the human cell also specified therein. In light of the definition of the term “cell” as provided by *Ex parte Balzarini* (21 USPQ 2d 1892, 1898(col. 2) (Bd Pat App & Inter, 1992) wherein said term is defined to include all living organisms from a single cell in culture to a complete living mammal including a human, the above noted limitation by implying ownership of a cell required for the formation of any uridine “metabolite” is a violation of the 13th and 14th Amendments of the U.S. Constitution, which amendments prohibit the ownership of any human by another. Applicant is respectfully requested to limit all future method claims to definitions of compounds administered to a host in need thereof only, and to avoid all process limitations which must take place following administration of an active ingredient (compound or pharmaceutical composition) to said host.

Claims **1-23** are rejected under 35 U.S.C. §112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The instant claims have not met the written description standard because the instant disclosure, while it lists a substantial number of different chemical species, has failed to provide sufficient information concerning how these compounds are made, how they have been isolated, and how they have been identified.

Claims **21-23** are objected to because of the following informalities:

In claims **21-23** the term “Pharmaceutical composition” should be amended to read --  
The pharmaceutical composition --.

Appropriate correction is required.

Claims 1-23 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 1, 3 and 6 the terms "stereoisomeric forms, racemic forms, metabolites, esters" are not completely defined because the particular chemical identities of the "isomers," "metabolites" or "esters" have not been defined with particularity, thereby rendering the instant claims and claims dependent therefrom incompletely defined.

In claim 20 the term "for inhibiting angiogenesis or for treating angiogenesis-related diseases" is a method of treatment limitation and therefore has no patentable weight in a pharmaceutical composition claim. Deletion is therefore respectfully requested.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

"A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent."

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States."

(e) the invention was described in

(1) an application for patent described under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application filed under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a)."

(f) he did not himself invent the subject matter sought to be patented."

Claims 1-23 are rejected under 35 U.S.C. §102(b) as being anticipated by Flo et al. (PTO-892 ref. R).

Applicant is referred to the "introduction at pages 1910 wherein the anorexic effect of jojoba flour is identified. This effect is inherent to the administration or consumption of jojoba

flour and the chemical contents thereof. This disclosure is deemed to anticipate the instant claims on the basis that the anti-angiogenic effect of the Simmondsin compounds contained therein are responsible for the observed weight loss (anorexia) induced in mammals fed the flour. This reference therefore provides disclosures that anticipate of the compounds, the pharmaceutical compositions including the flour, and the method of inducing anti-angiogenesis.

Claims 1-23 are rejected under 35 U.S.C. §102(a) as being anticipated by **Van der Eycken** (PTO-892 ref. L).

Applicant is referred to page 1 et seq. of the disclosure wherein the anti-angiogenic activity of Simmondsin compounds has been identified along with the structural features thereof and pharmaceutical compositions thereof including the flours containing same.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 C.F.R. §1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §§102(f) or (g) prior art under 35 U.S.C. §103(a).

Papers related to this application may be submitted to Group 1600 via facsimile transmission (FAX). The transmission of such papers must conform with the notice published in the Official Gazette (1096 OG 30, November 15, 1989). The telephone number to FAX (unofficially) directly to Examiner's computer is 571-273-0651. The telephone number for sending an Official FAX to the PTO is 571-273-8300.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner L. E. Crane whose telephone number is **571-272-0651**. The examiner can normally be reached between 9:30 AM and 5:00 PM, Monday through Friday.

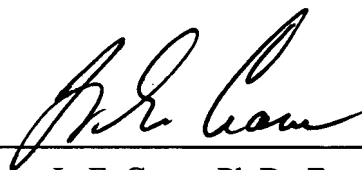
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. S. Anna Jiang, can be reached at **571-272-0627**.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group 1600 receptionist whose telephone number is **571-272-1600**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status Information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see < <http://pair-direct.uspto.gov> >. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

LECrane:lec  
08/06/2007

A handwritten signature in black ink, appearing to read "L. E. Crane", is written over a horizontal line.

L. E. Crane, Ph.D., Esq.  
Primary Patent Examiner  
Technology Center 1600